



In the Missouri Court of Appeals
Eastern District
DIVISION ONE

MICHAUD MITIGATION, INC. D/B/A	)	No. ED109587
PUROCLEAN RESTORATION	)	
PROFESSIONALS,	)	Appeal from the Circuit Court
	)	of Jefferson County
Respondent,	)	
	)	Honorable Joseph A. Rathert
vs.	)	
	)	
RAY M. BECKETT,	)	
	)	
Appellant.	)	FILED: November 9, 2021

Introduction

Ray M. Beckett (“Beckett”) appeals from the trial court’s judgment granting appellate attorneys’ fees to Michaud Mitigation, Inc. (“Michaud”). In his sole point on appeal, Beckett contends the trial court erred in awarding attorneys’ fees on appeal to Michaud because it lacked jurisdiction to do so. Because Beckett’s point on appeal fails to explain the legal reasoning for the claim of error by not explaining why the trial court lacked jurisdiction to award attorneys’ fees in this case, we dismiss the appeal under Rule 84.04.¹

Discussion

An appellant must adhere to the rules of appellate procedure in order for us to review the appeal. See Burgan v. Newman, 618 S.W.3d 712, 714 (Mo. App. E.D. 2021) (internal citation

¹ All Rule references are to Mo. R. Civ. P. (2021).

omitted). “The briefing requirements of Rule 84.04 are mandatory, and the failure to substantially comply with Rule 84.04 preserves nothing for review.” Id. (internal quotation omitted).

Rule 84.04(d) requires an appellant “(A) [i]dentify the trial court ruling or action that the appellant challenges; (B) [s]tate concisely the legal reasons for the appellant’s claim of reversible error; and (C) *[e]xplain in summary fashion why, in the context of the case, those legal reasons support the claim of reversible error.*” Rule 84.04(d)(1) (emphasis added). Rule 84.04(d) provides that “[t]he point shall be in substantially the following form: ‘The trial court erred in [identify the challenged ruling or action], because [state the legal reasons for the claim of reversible error], in that [explain why the legal reasons, in the context of the case, support the claim of reversible error].’” Id. A point on appeal that fails to substantially comply with Rule 84.04(d) preserves nothing for our review and is grounds for dismissal of the appeal. See Burgan, 618 S.W.3d at 714 (internal citation omitted). “This [R]ule [84.04(d)] is not a judicial word game or a matter of hypertechnicality, rather it serves to notify the opposing party of the precise matters under contention and inform our Court of the issues presented for review.” State v. Myers, 619 S.W.3d 578, 585 (Mo. App. E.D. 2021) (quoting Carmen v. Olsen, 611 S.W.3d 368, 371 (Mo. App. E.D. 2020)). Further, “[g]iven that a template is specifically provided for in Rule 84.04(d)(1), *appellants simply have no excuse for failing to submit adequate points relied on.*” Bennett v. Taylor, 615 S.W.3d 96, 99 (Mo. App. E.D. 2020) (emphasis added) (quoting Scott v. King, 510 S.W.3d 887, 892 (Mo. App. E.D. 2017)).

Here, Beckett’s point on appeal does not substantially comply with Rule 84.04(d). The point on appeal states: “The trial court erred in awarding attorneys’ fees on appeal to respondent because it lacked jurisdiction to do so.” This statement is an appropriate and compliant

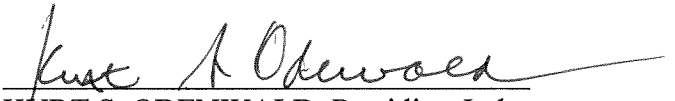
beginning of the point on appeal as it identifies the trial court ruling as an award of attorneys' fees and states the legal reason or the claim of reversible error as a matter of the trial court's lack of jurisdiction. But this statement is only the beginning—and does not complete the mandatory requirements of Rule 84.04. Beckett does not follow up this statement with any further discourse in his point on appeal. Beckett completes his point on appeal fulfilling only the initial requirement of Rule 84.04. Notably, Beckett's point on appeal makes no attempt to explain, even in summary fashion, why, in the context of the case, the trial court lacked jurisdiction so as to support the claim of error. See Rule 84.04(d)(1)(c); Myers, 619 S.W.3d at 585. To review Beckett's point relied on, we would have to become his advocate by sifting through the factual record and constructing an argument as to why the trial court lacked jurisdiction to enter the judgment from which Beckett appealed. This is an exercise in which we cannot and will not engage. See Estate of Hanks, 589 S.W.3d 604, 606 (Mo. App. E.D. 2019) (internal citation omitted). Beckett's point relied on does not specify whether the trial court lacked personal or subject matter jurisdiction and does not offer a statute or rule under which the trial court lacked jurisdiction. Nor does the point on appeal set forth in the brief provide any of the necessary facts that would allow us to determine the nature of the alleged jurisdictional defect. See id.; see also Burgan, 618 S.W.3d at 714 (internal citation omitted); Bennett, 615 S.W.3d at 99 (citing Scott, 510 S.W.3d at 892). We may exercise discretion to review a non-compliant appeal where the argument *in the point relied on* is readily ascertainable. See Aziz v. Tsevis, 565 S.W.3d 738, 743 (Mo. App. E.D. 2018). Here, the point relied on simply states the trial court lacked jurisdiction—nothing more. While dismissal of an appeal is not an action taken lightly by this Court, “we cautiously exercise [our] discretion because each time we review a noncompliant brief ex gratia, we send an implicit message that substandard briefing is acceptable. It is not.”

Scott, 510 S.W.3d at 892. “When confronted with a deficient point relied on, it is not proper for this [C]ourt to speculate as to the point being raised and supporting legal justification because to do so would place the court in the role of an advocate for the appellant.” Unifund CCR Partners v. Myers, 563 S.W.3d 740, 742 (Mo. App. E.D. 2018) (internal quotation omitted). Indeed, “[a]n insufficient point relied on that cannot be understood without resorting to the record or argument portion of the brief preserves nothing for appellate review.” Id. (internal citation omitted).

Beckett’s point on appeal does not substantially comply with Rule 84.04(d). Accordingly, the point preserves nothing for review, and we dismiss the appeal. See Burgan, 618 S.W.3d at 714 (internal citation omitted); Unifund CCR Partners, 563 S.W.3d at 742 (internal citation omitted).

Conclusion

The appeal is dismissed.


KURT S. ODENWALD, Presiding Judge

Kelly C. Broniec, J., concurs.
John P. Torbitzky, J., concurs.